IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3082 of 1998

HON'BLE MR.JUSTICE K.S.JHAVERI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRANSUKHALAL PRABHASHANKAR BHOJAK

Versus

DISTRICT REGISTRAR CO-OP SOCIETIES

Appearance:

MR RAVINDRA SHAH for Petitioner No. 1-6

MS MANISHA SHAH A.G.P. for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 29/11/2004

ORAL JUDGEMENT

1. The petitioners have by way of this petition challenged the orders passed by the respondents at annexures-A, B & C to the petition.

2. Mr. Shah learned advocate for the petitioners contended that the District Registrar has initiated

proceedings pursuant to the compliant filed on 2nd February, 1991 at the instance of Shri K.N. Nayak. It is also contended that before passing the impugned order, at annexure-A to the petition, the petitioners were not given opportunity of being heard and the petitioners were also not informed about the date of hearing. Even otherwise, also the date of hearing was fixed on 16th April, 1993 and the same was communicated to the petitioners vide communication dated 12th May, 1993. Thus, admittedly, the order is passed without hearing the petitioner. Hence, this petition.

3. Heard the learned counsel for the respective parties. I find force in the submission of learned advocate of the petitioners. Learned counsel for the respondent is unable to dispute the aforesaid position. Therefore, I am of the opinion that the petitioner is required to be given a chance of hearing. Accordingly, the impugned orders are required to be quashed and set aside and the matter is required to be remanded to the District Registrar, Mehasana for fresh decision.

4. In the premises aforesaid, on the facts and circumstances of the case, the impugned orders passed by the respondents at annexure-A, B & C to the petition are quashed and set aside. The matter is remanded to the District Registrar, Mehasana for deciding afresh after hearing the petitioners and after considering the reply of the petitioners as well as the submissions canvassed by the petitioners. Accordingly the the impugned orders are quashed and set aside.

5. The petitioner shall appear before the District Registrar, Mehasana alongwith this decision on or before 31st December, 2004. It is clarified that the District Registrar, Mehasana shall hear and decide the matter without being influenced by the earlier orders which are quashed in the present petition and also the present order passed in the present in the present petition, since the same is passed without entering into the merits of the case. The District Registrar shall also consider the application for supplying of the documents pursuant to the proceedings are initiated.

5. Rule is made absolute to the aforesaid extent with no order as to costs.

6. Office to supply certified copy to the petitioners immediately as also send the writ to the District Registrar, Mehasana forthwith.

[K.S. JHAVERI, J.]

/phalguni/